

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADRIAN BOOT

Plaintiff,

- against -

F+W MEDIA, INC.

Defendant.

Docket No. 1:18-cv-2166

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Adrian Boot (“Boot” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant F+W Media, Inc. (“F+W” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of the English rock band The Clash, owned and registered by Boot, a professional music photographer. Accordingly, Boot seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b).

PARTIES

5. Boot is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at The Chantry Walditch, Bridport, Dorset DT6 4LB, United Kingdom.

6. Upon information and belief, F+W is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 38 East 29th Street, New York, New York 10016. Upon information and belief, F+W is registered with the New York State Department of Corporations to do business in New York. At all times material, hereto, F+W has owned and operated a website at the URL: www.GoldMineMag.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Boot photographed the English rock band The Clash (the “Photograph”). A true and correct copy of the Photograph are attached hereto as Exhibit A.

8. Boot is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph is registered with the United States Copyright Office and given registration number VA 2-080-790.

B. Defendant’s Infringing Activities

11. F+W ran an article on the website entitled *Filmmaker Don Letts reflects on the legacy of The Clash*. The article prominently featured the Photograph. See

<http://www.goldminemag.com/articles/filmmaker-don-letts-reflects-legacy-clash>. A screen shot of the article with the Photograph is attached hereto as Exhibit B.

12. F+W did not license the Photograph from Plaintiff for its Website, nor did F+W have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST F+W)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. F+W infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. F+W is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by F+W have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant F+W be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
March 11, 2018

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